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ABSTRACT

This practical manual provides useful, concrete ideas and suggestions to help public libraries make libraries more accessible to persons with disabilities. Most suggestions are for persons who have difficulty with mobility. Reviews of pertinent laws and regulations are followed by concrete, step-by step suggestions for planning for accessibility, including smaller, low-cost changes. Twenty-two potential obstacles, such as parking, walks, ramps, doors, tables, aisles, equipment, restrooms, elevators, lighting, and water fountains are treated in separate discussions. The American National Standards Institute (ANSI) standards for accessibility are included in each discussion, as well as a list of libraries that have already implemented recommended changes. Ways to raise money for building or equipment modifications are described, and a list of 10 potential resources is provided. Appended materials include a resource list for further information or assistance; two bibliographies, Planning for Accessibility and Planning to Build; a list of public libraries in Vermont that are physically accessible; and excerpts from Public Law 101-336, The Americans with Disabilities Act of 1990, that are of interest to public librarians. (KRN)

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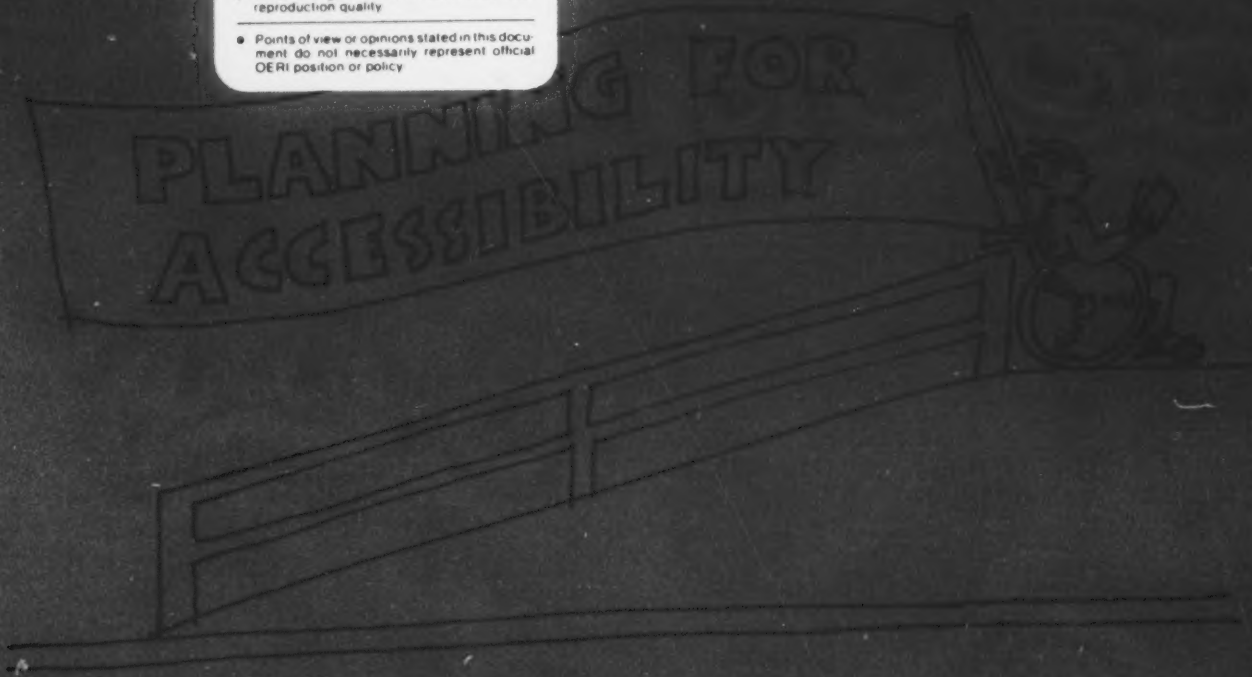
PLANNING FOR ACCESSIBILITY 101



Developed by
Marianne Kotch Cassell
and the Vermont Board of Libraries
Access Task Force

DEPARTMENT OF LIBRARIES
Montpelier, Vermont
May, 1991

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Acknowledgements

There are many ways to access public libraries; there are many ways for public libraries to increase their accessibility. This publication is designed to get librarians and trustees started in addressing physical access and is one result of the work of the Vermont Board of Libraries Access Task Force.

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Since October, 1989, the Task Force has examined many of the issues affecting access, including economic, educational, social, attitudinal, physical, and geographic barriers to full use of Vermont's public libraries.

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This publication is part of a federal-state program under the Library Services and Construction Act.

Introduction

Everyone in a town should have access to public library materials and services as well as to the experience of the public library. Coming to a library offers patrons a whole lot more than simply having a chance to check out books and other materials. Patrons can browse, interact with patrons and staff, attend programs, look at displays, flip through magazines, look up information in reference materials, and receive a whole range of personal services. Even though many Vermont libraries offer home delivery service to expand the availability of materials to those who can't come to the library, home delivery simply isn't the same experience. And librarians agree that home delivery does not reach as many people as could use the service.

When one's range of activities is limited, those that are available - such as reading, listening, thinking - can be even more important to the quality of one's life. Disabilities can be isolating, but they don't have to be. Public libraries can provide a real service in including people with disabilities in the everyday life of their communities.

We are all differently abled. No matter what our abilities, we all can and should participate in our communities and have opportunities to use our minds. Even if we are able-bodied now, we all have the potential for disabilities at some time in our lives, even as part of the aging process. Access to public services is a citizen's legal and civil right.

In 1988, only 67 Vermont public libraries claimed to be physically accessible to the handicapped. That is, people with disabilities could get into the buildings. But could they get around once inside? How much of those libraries could they actually access?

This manual is meant to help public libraries and trustees increase their libraries' accessibility. Use it to:

Level 1:
- Educate yourself about accessiblity laws and requirements
- Think about your library's accessiblity in new ways
- Identify obstacles that limit access
- Get started in making small physical changes
- Get started in offering accomodations
- Identify community and state resource people
- Visit libraries and other places that are accessible

Level 2:
- Concentrate on making changes, one area at a time
- Create a plan for making your library accessible by setting priorities and developing a timetable
- Identify funding sources

PUBLIC LIBRARY BUILDINGS

Most public libraries in Vermont were built near the turn of the century when libraries were designed to inspire and before people thought much about accessibility. Many are important historic and architectural landmarks in their communities.

Many libraries followed the Carnegie model - the tall building with an abundance of steps to its center entrance leading to a floorplan shaped like a cross with a central stack area in the back and high ceilings throughout. Vermont's Carnegie buildings are in Bellows Falls, Burlington, Morrisville, and Fair Haven, but many others follow the Carnegie model, such as those in Barre and Strafford. The popular, familiar, and functional floorplan has also been adopted by newer libraries (e.g., Monkton and Bakersfield).

Many Vermont public libraries are also in buildings not initially built for that purpose. Libraries in converted houses, such as Canaan's and Arlington's, may have the most trouble with accessibility due to small rooms, stairs and doorways. Other conversions have included churches (Richmond and Middletown Springs), post offices (Rutland), storefronts (Wells River), taverns (Dorset), etc. Other public libraries share space in public buildings in their towns such as Masonic Temples (Guildhall), municipal buildings (Milton and Barnet), and schools.

When libraries were designed in the past, accessibility was not a consideration, but now it is a requirement. The greatest problem with using or working at an older library building is generally navigating steps to get inside. But, once inside and no matter what the age of the building, there are many other barriers such as:

- narrow doorways or narrow aisles with little space to turn corners

- books shelved very high or very low - or simply very tightly

- tall circulation desks, easy for staff to stand at but difficult for some people to reach or see over

- oversized books shelved spine up, reducing aisle width

- restrooms located up- or downstairs from the circulation area and/or lacking accomodations for people with disabilities

- meeting rooms or specific parts of the collection located up- or downstairs

- little or no parking close to the building; or lack of an accessible route from the parking area

- paperback racks or display cases blocking traffic flow

- seating at tables reducing the size of aisles (there may sometimes be sufficient room to pass by when no one is seated) or tables and workspaces with insufficient height for wheelchairs

LAWS AND REGULATIONS

Here is a brief overview of laws public libraries should know about. An attorney can help interpret the laws as they apply to your specific situation.

The Rehabilitation Act of 1973 (PL 91-142)

- requires recipients of federal funds to provide equal opportunity and access in programs, activities and employment to mentally and physically disabled people

- prohibits discrimination against an otherwise qualified individual with disabilities, solely on the basis of disability, in any program or activity that receives federal assistance

- requires, since 1977, all new construction (that which breaks ground) and other physical alterations to a public building to be architecturally accessible and did not exempt historical facilities.

- applies to Vermont public libraries because of the Department of Libraries' partly or totally federally funded programs they use (e.g., regional libraries, interlibrary loan, consulting services, audio-visual service). Federal funds could also include grants from Community Development, National Endowments for the Arts and/or Humanities, Library Services and Construction Act Titles II (construction) and VI (adult literacy).

Americans with Disabilities Act - 1990 (PL 101-336)
(full text included at the end of handbook)

Public Services - Title II (effective date January 26, 1992)

- applies the public libraries which are a department or agency of state or local government

- states that "no qualified individual with a disability may be excluded from participation in, be denied benefits of of services, programs, or activities of, or be subjected to discrimination by a public entity on the basis of disability."

- requires all facilities, services and communications to be accessible consistent with Section 504 of the Rehabilitation Act of 1973. This means:

* changes in policies, practices and procedures to avoid discrimination

* provision of auxiliary aids and services

* removal of architectural and communication barriers (subject to limitations

* new construction and alterations to facilities must be accessible

Public Accomodations - Title III (effective date January 26, 1992)

- applies to virtually all libraries not covered under Title II

- states that "no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation."

- requires:

* reasonable changes in policies, practices and procedures to avoid discrimination

* provision of auxiliary aids and services for individuals with vision or hearing impairments or other individuals with disabilities, unless undue burden would result

* remove of physical barriers to existing facilities if removal is readily achievable. If not, alternatives methods of providing services must be offered, if readily achievable.

- states that new construction and alterations to facilities must be accessible, but does not require elevators for facilities of less than three stories or less than 3,000 square feet per story.

- does not require service to indivduals who pose "a direct threat to the health and safety of others."

- Department of Justice to develop regulations for public accommodations provisions by July 1, 1991. Department of Justice is also charged with investigation of citizen complaints.

Library Services and Construction Act - Amendments of 1990 (PL 101-254)

- requires that recipients of funds under the act shall not discriminate on the basis of race, religion, age, gender, national origin, and **handicapping condition** in providing space for public meetings.

Vermont Deaf Access Law (Act 172)

- requires that interpreters and assistive listening devices be provided at public meetings

Vermont Public Accomodations Law (21 V.S.A. 271)

- covers new construction and alterations, including parking

- implemented via Rules Governing Access to Public Buildings and Facilities by Persons with Physical Disabilities, developed by Vermont's Architectural Barrier Compliance Board of the Vermont Dept. of Labor and Industry, 1988. The Rules build on the ANSI Standards. The Board also hears petitions for exemptions and variances.

Vermont Executive Order of July 1, 1986

- requires state business to be conducted in facilities that are accessible to Vermonters with disabilities

ANSI Standards

- provide technical specifications to achieve uniformity in design criteria in building codes. The America National Standards Institute (ANSI) worked with people with disabilities and architects to develop Specifications for making buildings and facilities accessible and usable by physically handicapped people, last updated in 1987.

- specify heights, widths and vertical/horizontal dimensions to "allow a disabled person to get to, enter, and use a building or facility." Because the ANSI specifications are minimum specifications based on adult dimensions, sometimes modifications to children's sizes may be necessary.

Minimum Standards for Vermont Public Libraries

- includes the provision that libraries "be accessible to the handicapped." The language of the 1986 standard, approved by the Legislative Administrative Rules Committee, was made particularly vague in order to apply to federal and state laws as they changed over time.

Employment

Though not covered in this handbook, Section 504, the Americans with Disabilities Act, and Vermont law also prohibit discrimination in employment by libraries.

FACTS ABOUT PEOPLE WITH DISABLITIES

18% of Americans have some form of disability (Jimmy Carter, 1977).

The National Council on the Handicapped's 1986 statistics showed that, of 36 million Americans with disablities, 26.8 million (74%) have arthritis, 18.4 million (51%) have orthopedic disabilities, 17 million (47%) have hearing problems, and 8.2 million (23%) have visual impairments.

66% of all Americans with disablities between the ages of 16 and 64 are unemployed (Harris Poll, 1986).
- 25% of people with disabilities work full time.
- 66% of those not working wish to be employed.

At least 66,000 Vermonters have handicapping conditions (Developmental Disabilities Council).
- 9,000 Vermonters have developmental disabilities.
- 8,500 Vermonters are mobility impaired.
- 59% of Vermonters with disabilities surveyed in 1989 were not working. Those working worked an average of 14 hours a week.

20% of Vermonters are functionally illiterate (Department of Education).

Every day 1,000 Americans pass the age of 65.

TYPES OF DISABILITY

To many people, the word "disabled" means "in a wheelchair." But many people with disabilities can walk. They may not be able to hear or to see, or they may have practically invisible limits. Whatever those may be, they are hindered or inhibited from using public libraries.

The list of physical disabilities considered by the American National Standards Institute (ANSI) in developing building specifications includes:

- Inability to walk
- Difficulty walking
- Reliance on walking aids
- Sight and hearing disabilities
- Incoordination
- Reaching and manipulation disabilities
- Lack of stamina
- Difficulty interpreting and reacting to sensory informaiton
- Extremes of physical size

A librarian may want to add medical disabilities such as cardiac, respiratory, and aging problems as well as difficulty reading.

Different disabilities have different requirements; what helps one hinders another. For example, threshholds impede wheelchair traffic, but they can help visually impaired people identify a change in space. Another example involves signage. It is often easier for people with vision problems to read serif type, but sans serif type is easier for people who are just learning to read.

The physical changes you make to your library to increase accessibilty should be effected with care and with the purpose of integrating and including people with disabilities rather than treating them differently or separately from other patrons.

> To grow up handicapped in America is to grow in a society that, because of its misreading of the significance of disability, is never entirely human in the way it treats the person within.
>
> --Gliedman, J. & Roth, W.
> The Unexpected Minority: Handicapped Children in America. HBJ, 1980)

NECESSARY SPACES

Able-bodied adults in winter clothes need 32" of width to walk straight ahead comfortably with arms swinging. 64" of width is necessary for two streams of traffic to pass comfortably, whether able-bodied in winter clothes, in a wheelchair, or in a walker.

Wheelchairs

The ANSI standards note that a standard wheelchair is 41 1/2" long, 24" wide, and 36" high. The distance from the average user's arms to the floor is 29", from the seat to the floor is 19 1/2", and from the pusherhandles to the floor is 36". An average adult seated in a wheelchair has an eyelevel of 43-51". An electric wheelchair may need more room.

At least a 30" clear opening is needed (the national standard is 32") for a wheelchair although people need 6" of elbow room on each side to propel one. A 180-degree turn requires a 60" diameter space for turning; a 78 x 60" space allows a smoother turn without bumps and stops.

Wheelchairs take complex maneuvering. A wheelchair user unfamiliar with a building will need more clearance, particularly if competing traffic is heavy or frequent, or if sudden movements are necessary, or if the wheelchair must be turned at openings.

Wheelchairs are most easily propelled on hard, stable, regular surface; carpeting can make travel difficult. Some wheelchair users have low stamina or restriction in arm movement.

Walking aids

Most people in walkers can maneuver clear openings of 32", but 36" allows a more comfortable gait. Crutch tips can be hazardous in narrow passageways and on carpeting.

Walking without aids

Some people can walk, but slowly. For some, traveling 200' could take two minutes.

Reaching, gripping

Some people with disabilities have trouble reaching high and/or low. Others have trouble gripping, grasping, and then moving.

PLANNING FOR ACCESSIBLITY

Most libraries will be able to achieve some level of accessibility, but it will be harder for some than others. Unless you're lucky enough to build a new library, you probably won't be able to make your library accessible all at once. The following pages are designed to help you develop a plan to make your library accessible. A plan is a visible sign of your library's commitment to accessibility and will help you approach the project systematically.

Planning accessibility is a process, much like planning total service. It involves the following steps:

1. Examine your current space and its limitations.
   Ask community members with disabilities to help you.
   Idenitfy historic features of your space that should be retained while access is improved

2. What changes are needed?
   Identify those that are essential as well as those that are easiest/hardest to achieve.

3. Set priorities for making changes.
   Develop a timeline for implementation.

4. Identify resources available and necessary for making changes.

5. Determine who will be responsibility for developing resources and implementing changes

> Before you do anything new, even something not overtly related to access (install a computer work station, put in a new sign system, resurface the sidewalk, etc.), ask yourself:
>
> HOW CAN I MAKE THIS ACCESSIBLE TO ALL?

GETTING STARTED

Most public libraries interested in increasing physical accessibility will probably have to work with what they have rather than plan a completely new builidng. The specifications and ideas on the pages that follow should help you set priorities. Here are some ideas to help you begin:

Measure: all doorways
height of shelving
height of table surfaces and undersides from floor

Observe: location of collection, activities, programs
traffic flow
steps

Identify people with disabilities in the community who can offer ideas and support. Ask social services workers, ministers, school personnel, town officials, etc. Find out how many aged people live in the community and, if possible, the projected aging population from your regional or local planner

Consider what means patrons use to get to the library - by personal vehicle, public transportation, on foot. Is parking a problem? Look at the library's physical location in terms of traffic patterns, central location, etc.

Ask a person in a wheelchair to go through your library with you to point out trouble spots. Do the same with people with other disabilities.

Publicize the reasons for easy access to all, including the thought that everyone should feel comfortable using library services.

Borrow a wheelchair and a pair of crutches and try to get around your library yourself.

> If your library is on the second floor of a building, consider alternate sites in town for relocation.

LOW COST CHANGES

While every library should be serious about physical access, here are a few ideas that will make a difference but should not cost a lot:

Use large(r) print on directional signs
Move reference books to the edge of tables and off tall stands

Give and offer assistance - put up signs encouraging people to ask

Display materials from the Department of Libraries Special Services Unit periodically and have application forms handy at all times
Make lists of resource people and agencies that can assist

Widen aisles between tables (at least 36")
Open access to the copier, water fountain, etc.
Offer a shopping cart, basket or tote bag for carrying books in while browsing

If your storm door opens out and the main door opens in, remove the storm door if possible.

Remove: plants, racks, and other traffic blocks
unnecessary interior doors and threshholds
door mats (or move to one side)
privacy screens in bathrooms or stalls

Fasten down edges of carpet or mats

Install: handrails on steps and walks with inclines
lever-type door handles and faucet handles
full length mirrors that can be used by all
Braille labels over elevator controls
lighter doors or different hardware to open existing doors

Lower light switches
Cover and insulate exposed water pipes under sinks
Reverse or change the way some doors swing

Eliminate gravel - use blacktop

Move programs to accessible locations

INVOLVING YOUR COMMUNITY

If you are concerned about raising public awareness about the lack of access to your library, consider starting by raising general consciousness, comfort, and concern. Expose all ages to people of all ages with disabilities via programs, displays, photo exhibits, collection development. Whenever possible, include people with disabilities in projects, programs, and publicity, so that their general involvement in and need for the library is visible.

Several statewide organizations have Speakers Bureaus, including the Vermont Center for Independent Living and the Vermont Association for the Physically Challenged. Your library could sponsor a public meeting on making all public buildings in your town accessible or about the Americans with Disabilities Act. Make the library an active participant in any community activities involving people with disabilities such as Special Olympics.

> The best way to preserve a building is to use it.
>
> --Jay White, Architect

GETTING INTO THE LIBRARY

Parking
Walks
Ramps
Entrances
Doors

PARKING

Off-street parking and specially designated parking encourages public library use because patrons do not have to hunt for a spot and do not have far to walk with materials.

ASNI Standards:

1. accessible spaces adjacent to library, located on the shorted possible route to an accessible entrance
2. identified for use by physically handicapped
3. space minimum 12' wide, with 8' for the car and 4' on a level surface to one side for person to transfer to/from wheelchair
4. persons not compelled to wheel or walk behind parked cars to get to entrance
5. clear path of travel to entrance from transit stop or vehicular arrival point
6. slanted so that wheelchairs will not roll if unattended while person is transferring to or out of vehicle

Additional Vermont Rules:

1. in cases of new construction, if there is off-street parking, at least one for every 50 provided must be designated for the handicapped
2. signs identifying parking spaces must be provided and must include the access symbol and the words "Handicapped Parking Only"

Considerations:

Can cars get in and out and travel through the lot easily?

Elminate curbs to walkways or install a curb ramp adjacent to the space(s) designated for the handicapped. A common complaint is that a space is available, but a curb prohibits accessing the building.

The parking lot surface should be smooth. Gravel is extremely difficult to navigate a wheelchair over (particularly in mud season).

Are there signs pointing to the library? You can buy some with the universal library symbol from library suppliers and ask your Town highway chief to put them up around town.

"Ticket" cars that park in designated handicapped spaces that clearly do not belong there by talking to people or putting reminder cards on windshields (Vermont Center for Independent Living distributes some that cite the law in a friendly way).

Offer help to those who need help getting in and out of their cars or carrying books into the library.

Library to visit: Burnham Memorial Library, Colchester

WALKS

ANSI Standards:

1. minimum 48" wide
2. gradient 5 percent maximum
3. continuous common surface not interrupted by steps or abrupt changes in level
4. blend to a common level wherever crossing other walks, driveways, or parking lots
5. level platform at top, at least 60"x60" if door swings out or 36"x60" if door does not swing into walk
6. platform extends 12" beyond doorway on knob side

Considerations:

Make sure the surface is smooth but not slippery, especially when wet or icy. Do not use gravel or stones.

Shovel!

Obstacles such as trees and shrubs planted too closely or hanging too low overhead should be pruned or removed. These grow over the years and should be regularly maintained.

A bicycle rack helps people keep bikes off walks and makes it less possible for people to tie them to railings.

Library to visit: Dorothy Alling Memorial Library, Williston

RAMPS

Installing a ramp may be the single most useful improvement you can make to encourage use of your library by all. Costs are highly variable and depend on conditions, library architecture, and materials to be used.

ANSI Standards:

1. slope no greater than 1 foot rise in 12 inches (the length can be no greater than one foot for every inch of elevation)
2. handrail no more than 32" high on at least one side of ramp (both if the ramp has a rise greater than 6")
3. handrail surface smooth
4. handrail extends 12" beyond top and bottom of ramp
5. nonslip surface
6. level platforms at turns at least 60" long
7. minimum 6' straight clearance at bottom
8. 60" long level rest and safety platforms at 30' intervals
9. 36" minimum clear width
10. outdoor ramps and approaches designed so that water will not accumulate on walking surfaces

Additional Vermont Rules:

1. for new construction, maximum rise of 30"
2. covered ramp for exit

Considerations:

An additional handrail shorter than 32" may be helpful for children. Handrails may be metal pipe or smoothly sanded lumber, and rounded designs are easier to grip than others.

The surface should be smooth but not slippery. Concrete is more expensive but lasts longer. Metallic aggregate can be added to reduce slipping. Pressure-treated wood adapts to weather changes but can give a bumpy ride since boards should be crosswise to allow drainage. Surface texture strips can be used to signify changes of level or hazardous areas. Painted surfaces should be somewhat gritty.

An uncovered ramp is Vermont requires a great deal of maintenance. If your library has one, shovel it in winter and watch for ice buildup and accumulation of snow and debris (sometimes this means several times a day!).

Some Alternatives for a library with a front door with steps:

All of the following depend, of course, on the lay of the land and should be discussed with an architect.

1. Straight run - no longer than 30' with a 1:12 rise and 5'x5' platform at the top

Library to visit: Alden Balch Memorial Library, Lunenburg

2. Switch back - a u-shape approach at the front with a turning platform of 5'x5', or, if slope is small, directly from the side. This may allow library to retain front steps.

3. L-shape - approach from around the corner with a 5'x5' turning platform at the corner. This may also allow the library to retain front steps.
Library to visit: Morristown Centennial Library, Morrisville

4. Ramp to lower level with good drainage. This may mean some shifting inside to allow access to library services, personnel, and collections.
Library to visit: Ilsley Library, Middlebury

5. Build a bridge from the street to the door to eliminate steps for all.

6. Regrade the site. Raise the earth for a gradual slope and eliminate steps. A 1:20 pitch doesn't require railings. Be sure not to drain into building foundations.

7. Change the main entrance to an accessible side of the building. This will probably require some shifting inside. A lift may get patrons to other parts of the building from inside.

8. If your library has a porch, consider reconstructing it so that the ramp is contained in it. This would make it a covered ramp, would retain the building's character, and would perhaps enable entry via the front door.
Library to visit: Stowe Free Library

9. Build a ramp inside if you have an on-grade entrance and need to get people to another level.
Library to visit: Kimball Public Library, Randolph

ENTRANCES

Access to any library starts at the front (or main) door. People with disabilities should be able to enter by a route that gets them into the library's main public area, not a storage area or another place where staff will not be able to greet them and offer them assistance (as it would any patrons). This does not mean that people with disabilities must be able to use the same door, but the means of access should have the same "arrival point" as other people.

ANSI Standards:

1. at least one primary entrance usable by individuals in wheelchairs
2. at least one entrance provides individuals in wheelchairs access to elevator
3. clearly marked with symbol of access
4. a service entrance may not be the sole accessible entrance

Considerations:

Entrances should be as independently useable as possible.

Public entrances should be well-lit at night so that they are visible and safe.

At least the main entrance and/or the one used by people in wheelchairs should be sheltered from the weather.

Buzzer systems act as barriers.

Library to visit: Rutland Free Library

DOORS AND DOORWAYS - INSIDE AND OUTSIDE

ANSI Standards:

1. minimum 32" clear opening, when door is open 90
2. doors level on both sides of door and level 60" minimum in direction door swings
3. doors operable on a single effort of about 5 to 8 lbs. of pressure
4. floor extends at least 12" beyond doorway on both sides
5. sharp inclines and abrupt changes in level avoided at sills
6. threshholds generally no higher than 1/2"

Considerations:

Threshholds are particularly inconvenient for people in wheelchairs. Remove any sills or threshholds possible or sand/bevel both sides to form a slight ramp no more than 1/4" to 1/2" high. Cue with a color contrast if possible.

Some people do not have the strength to open and close doors. Remove as many interior doors as possible, or leave them fully open or closed. Doorknobs should be the lever-type or an easy-to-grip oval. Use shatter-proof glass in any windows in doors. Consider a time-delayed door closer. An automatic sliding door is easiest but expensive and subject to breakdowns. Two-leaf doors are generally not useable by people with disabilities unless they can be opened by a single effort or unless at least one side is 32" wide.

Offset hinges to increase door clearance.

For fire safety, doors should open out if a building serves more than 50 people (or has 15 sq. ft. per person served). Some older doors open in with a storm door that opens out. Remove the storm door if possible.

Eliminate turnstiles such as those with some security systems.

Vestibules, often used to make a building more energy efficient, must allow a wheelchair user to move to one side so that s/he can close one door and open another. Allow 48" for the wheelchair plus the width of the door to avoid "double door trap," or 7' total depth. Consider enlarging the vestibule further as a place to hang coats, put on boots, etc.

Increase visibility by clearly marking exits and painting the door a contrasting color from the wall.

USING THE LIBRARY

Tables
Service counters
Aisles
Collection
Equipment
Signs
Meeting spaces
Restrooms
Stairs
Elevators
Lighting
Floors

TABLES, CARD CATALOGS

Patrons, employees, and volunteers all need accommodations to sit and work in most public libraries, even those that do not specialize in reference services.

ANSI Standards:

1. seating at tables, counters, work surfaces have knee spaces at least 27" high, 30" wide, 19" deep
2. tops of tables and work surfaces are from 28" to 34" from the floor

Considerations:

It is generally recommended that card catalog drawers not be lower than 16" from the floor. The card catalog should not be taller than between 48" and 54". Make sure your drawers have rods in them so that the drawers may be easily removed. If you keep scrap paper and pencils on top of the catalog, make sure they are at a reachable height also.

Catalog cards can be difficult for low visioned people to read because of their small print and, sometimes, low contrast between the paper and the ink. Clearly typed cards on white stock are easiest to read. Tightly packed drawers take dexterity to flip through. Is your catalog located near the bulk of the collection for easy reference?

Your library may want to consider having a study area for the hearing or visually impaired, for listening or being read to.

Since more libraries are using computers, make sure your workstations have enough knee space and aren't too high.

See "Meeting Spaces" for thoughts about seating.

SERVICE COUNTERS, SHELVING

These are encountered by almost all library patrons, with or without disabilities. The aim should be for all to be able to use the library easily, including small children, the elderly, and others. Patrons should be able to see library staff readily and to place materials on counters easily.

The ANSI Standards do not actually address service counters, shelving or other features of libraries, stores, and public buildings. However, from the ANSI standards covering dwellings, the following generalizations can be drawn:

1. Service counters should be from 28" to 34" high. If your library's circulation desk is higher than this, provide an auxiliary space in the immediate vicinity or have a carpenter build a cut in the countertop.

2. The accessible height reach depends on the approach. If the approach is forward only, the maximum reach is 48" and the minimum low forward reach is 15" above the floor.

If a parallel approach is possible, the maximum side reach is 54". The lowest possible reach when approaching from the side is 9" above the floor.

Thus, shelve books no higher than between 48" and 54" and no lower than 9" from the floor.

Considerations:

Your library may want to purchase a magnification device for people with visual impairments. Indexes and other reference tools have extremely small print, often on flimsy paper. A vision aid might be kept near the reference materials.

Atlases, dictionaries, and other heavy materials are harder for people in wheelchairs to reach if they are on tall stands. Simply pulling a reference book often kept at the middle of a table out closer to the edge may be a great improvement.

Libraries to visit: Rutland Free Library, Stowe Free Library

AISLES

ANSI Standards (adapted)

1. Aisles between book stacks should be at least 36" wide, but some library building consultants recommend a 42" minimum because some oversize books can reduce aisle space.

2. A minimum turnaround space of 60"x60" is needed for pivoting a wheelchair, with a 78"x60" space providing an easier turn. These are numbers to aim for when designing stack spaces.

Considerations:

Even if books are arranged in stacks with plenty of room to walk around, make sure they are arranged logically and sequentially in alphbetical and Dewey order. Make sure books are easy to take off the shelves by shelving to the edge and allow room to shift them on the shelves.

Pay attention to directional signs; sometimes they do not correspond to book location after the collection is shifted (by use or by design).

Obstacles to traffic flow also include furniture, seats, planters, columns, sharp corners, low overhead extensions, projections into walk paths, water fountains, machinery, temporary stacks, book trucks, and book racks. Avoid sharp corners on furniture - round them off.

COLLECTION

Using the collection

Patrons with special needs may need a little extra orientation to use the library efficiently, and they may need help using special equipment.

People with disabilities may need more help getting books from the shelves or using the card catalog. Their disabilities may cause them to read more slowly than the loan period allows. They may need to take materials that may not ordinarily circulate home so that they can use necessary vision aids or so that someone else can read the information to them.

Formats

A library's materials selection policy should address the quantity and type of special formats to be stocked. It may also address any user aids provided, exceptions to loan periods and other regulations, and the extent of in-library assistance to be provided.

Many Vermont libraries are purchasing or borrowing more large print books from the Department of Libraries Special Services Unit. Special format materials, such as large print, may require more and sturdier shelf space per unit because they are heavier. The average 36" wide shelf can hold about 24 cassette tapes or 23 large print books.

Your library may also want to consider purchasing telecaptioned videotapes for home viewing as well as videotapes that teach signing and other subjects of interest to people working with or living with disabilities.

Any special format materials should be browseable, attractive, and prominently displayed with a readable sign. They should cover as broad an interest range as general formats do, and they should be regularly weeded and publicized.

Information and Referral

Public libraries should offer information and referral services to all patrons as part of their normal reference activities. Some of the resources listed in this manual will be helpful to add to your information and referral files, particularly the address and phone number of the Department of Libraries Special Services Unit. Referrals to SSU services, as well as applications for patrons signed by librarians, are welcome. Your information and referral files should also include names of volunteer readers and signers in the community.

Outreach

Public librarians in Vermont extend their services through regular visits to nursing homes and senior meal sites with materials to check out. Other institutions and group facilities in the community may also appreciate outreach service. Mailing books and home delivery are two other options to extend service to people confined to their homes.

EQUIPMENT

Your library may want to have the following items on hand for use in the library or to loan to people with disabilities:

Tape player
Desk top lense magnifier - available from many suppliers, including Gaylord
Telephone Device for the Deaf (TDD) - see "Telephones"
Telecaption decoders for videos - see "Resources"

Any special equipment will need regular maintenance and cleaning, but, more than that, patrons will probably need to be urged to use or borrow it initially.

SIGNS AND IDENTIFYING MARKS

Many people with disabilities have limited head movement and/or reduced peripheral vision. Others can only read large print, while others have reading disabilities. Signs should be clear and large enough to read. Locations perpendicular to the path of travel are easiest for anyone to spot.

ANSI Standards:

1. braille symbols or raised letters or number should identify rooms and offices
2. signs should be placed on walls, not doors
3. height should be 54" to 66"
4. doors not intended for normal use, that may be dangerous to to the blind, have knurled door knobs or equivalent tactile markings
5. use verbal, pictoral, and symbolic information

Considerations:

Keep signage consistent throughout the library.

Cursive writing, calligraphy, or italics are more difficult to read than print, with or without serifs. While non-serif type face is easiest for those with reading difficulties, serif type is easier for visually impaired people. Use type no smaller than 16 point. Here's an example:

This is 18 point type.

Readability is also aided by contrast, so that black letters on white are easier to read than the reverse. Use flat, non-glossy paper or off-white, and be aware that fabric ribbons on dot-matrix printers wear out fast.

Use simple words and a combination of upper and lower case letters, not all upper case, to aid comprehension.

A visual map may be the easiest way to direct people through a library. Color coding or pictorial stickers may also help people who have difficulty reading.

Do all your library posters depict able-bodied WASPS?

MEETING SPACES

Many public libraries have chosen to concentrate a great deal of energy on programming for the public and providing space for community meetings. These services should be accessible to all.

ANSI Standard:

1. wheelchair areas are an integral part of any fixed seating plan and are dispersed throughout
2. wheelchair areas in a fixed seating plan adjoin an accessible route for emergency exit and provide lines of sight comparable to all viewing areas
3. wheelchair spaces should be at least 33" wide and 48" (for forward/rear access) or 60" (side access) deep
4. areas with audio-amplification systems should provide systems to assist persons with severe hearing loss in listening to audio presentations

Considerations:

Seats should be firm, well-padded, and easy to get in and out of. Chairs with armrests are easier to get out of. If seats are not fixed - and in most libraries they aren't - space should be allotted for wheelchairs at several places along aisles. Having stackable chairs will keep the space more flexible

If your library's meeting space is on the second floor, you may need to consider moving programs to a more accessible location, whether in the building or in another building in town. Do not wait for a person with disabilities to appear at a program before moving a program; rather, address the issue in advance via a policy. Consider the possibility of providing a signer at programs at this time, too. A list of certified sign language interpreters is available from Rene Pellerin, Vermont Division of Vocational Rehabilitation, 241-2186.

Making programs accessible to all does not preclude your library's offering programs specifically directed toward people with disabilities, whether at the library or at meeting, living, and other places. Another community organization may be interested in working with the library to provide child care and/or transportation when appropriate, such as in Lunenburg where the senior van transports seniors to monthly "Book Marks" programs.

Your library may also wish to extend its programs to those who cannot come to the library via a cable television public access channel, radio, or video- or audio-tape.

Libraries to visit: Ilsley Library, Middlebury
Brooks Memorial Library, Brattleboro

RESTROOMS

ANSI Standard:

1. public restrooms should be accessible and usable by people with disabilities
2. wheelchair turning space of 60"x60" minimum (making the minimum restroom size 5'x7')
3. At least one stall should be a minimum of 36" wide by 56" deep; should have a 32" wide minimum door that swings out; should have grab bars on each side (25" high, parallel to the floor, 1 1/2" in diameter, with 1 1/2" clearance between rail and wall, fastened to wall at ends and center)
4. basin of lavatory no higher than 31" from floor with clearance for knees
5. mirrors and shelves, if mounted, no higher than 40" above floor, but as low as possible
6. men's urinal with elongated lip and opening of basin 15" maximum from floor
7. accessories such as towel bar or single-action dispenser mounted a maximum of 40" from floor
8. minimum lighting 30 footcandles

Considerations:

The public restroom(s)s should be clearly marked and located near the entrance and main public area. Vermont Rules state that there should be at least one accessible fixture on each accessible story where facilities are provided. If there is a latch on the inside of the door, it should be operable by key from outside.

Faucet controls should be the lever-type and have tactile markings for "H" and "C". To prevent burning of people in wheelchairs, hot water and drain pipes should be insulated if located in such a way permitting body contact, such as underneath the lavatory.

Libraries to visit: Stowe Free Library, Essex Free Library

STAIRS

Many older libraries have half-levels and mezzanines. Charming as these and balconies are, they are distinct barriers to access. A library with stairs should do everything it can to put the most-used materials at an accessible level. An interior ramp, a lift, or an elevator should be considered.

ANSI Standards:

1. edges of stair treads (nosings) are rounded and do not protrude too far
2. handrails 32" above tread at face or riser at both sides
3. at least one handrail extending a minimum of 12" beyond top step and at least 12" plus the width of one tread beyond bottom step
4. maximum 7" risers wherever possible
5. tread no less than 11" deep

Consideration:

If the historic handrail is too low by today's standards, consider adding a second, simple rail at the proper height, such as that of Rutland Free Library's grand staircase.

Library to visit: Essex Free Library

ELEVATORS

If the collection and other library services are located on multiple levels with no possibilities for change, installation of an elevator should be planned. Current cost for installation of an elevator is between $50,000-100,000 for a three story building. A simple lift costs about $12,000.

The alternative to installing an elevator is to place all non-public areas, such as offices, processing, and storage, in inaccessible places. This solution may make staffing difficult in small libraries and would make it impossible for an employee with disabilities to work behind-the-scenes.

ANSI Standards:

1. accessible and usable by the disabled at all levels normally used by the public
2. control buttons labeled for the blind
3. control buttons, telephones, etc. mounted no more than 54" from the floor
4. interior at least 68" x 51"
5. emergency telephone
6. visible and audible signals designate floors
7. automatic timing mechanic so doors remain open
8. self-leveling mechanism to insure car stops level with floor
9. emergency control buttons at bottom of panel
10. raised floor numbers or braille symbols
11. door opening at least 36"
12. call button centered at 42" above floor

Libraries with lifts: Dorothy Alling Memorial Library, Williston
Kimball Public Library, Randolph

Libraries with elevators: Bennington Free Library
Brooks Memorial Library, Brattleboro
Fletcher Free Library, Burlington
Burnham Memorial Library, Colchester
Essex Free Library
Ilsley Library, Middlebury
Kellogg-Hubbard Library, Montpelier
Rutland Free Library
Springfield Town Library

LIGHTING

Carnegie libraries and old schoolhouses-turned-libraries tend to have high, tall windows in reading spaces. But stack rooms may be plagued by disparity in lighting quality, particularly at the bottom shelves.

ANSI Standards:

1. lighting on ramps not less than one footcandle per sq. ft.
2. exit signs identifiable to all
3. exterior entrances illuminated at night to an average of 5 footcandles

Considerations:

Glare from windows can be uncomfortable and can make it difficult for the visually impaired to browse shelves or read materials at tables. Reduce glare with blinds or other window coverings. Indirect lighting or lighting suspended on a high ceiling can illuminate upper shelves but not bottom shelves in stacks. Sometimes lowering lights or hanging lights directly over shelves can help.

Make sure table and floor lamps have heavy, broad bases so they can't be easily knocked over. They should also emit enough light for reading at night.

Library to visit: Stowe Free Library

FLOORS

ANSI Standards:

1. nonslip surface
2. floors on each story not at a common level are connected by ramp
3. any gratings have spaces no greater than 1/2" wide in any direction

Considerations:

While many libraries find carpeting wears well, keeps noise down, and creates a more welcoming atmosphere, carpeting can make travel difficult for wheelchairs. Make sure that carpeting is glued down firmly so that there is no movement between floor, pad, and carpet. The maximum pile height should be 1/2". Exposed edges of carpet should be fasted to floor surfaces and have trim along their entire length.

Changes in floor covering (such as tile to carpet) can help visually impaired people distinguish areas or entrances. Carpet often signifies furniture and other obstructions to blind people.

Nonstatic carpet is best because static interferes with hearing aids.

Doormats should be recessed and flush with adjacent surfaces and should not have small openings that crutches or canes could get stuck in. An alternative might be a rubber mat with beveled edges at the floor.

Fireplaces should not have raised hearths that extend into rooms, or visually impaired people (and toddlers) may trip over them. For safety's sake, add a fireplace screen.

BEHIND THE SCENES

Switches
Safety devices
Hazards
Water fountains
Telephones

SWITCHES AND CONTROLS

For safety reasons, many switches and controls should not be easily visible for access by patrons. Restrooms, meeting rooms, and other similarly public areas will need accessible controls, but employees with disabilities should also be considered.

ANSI Standards:

1. switches and controls for light, heat, ventilation, windows, draperies, fire alarms, etc., maximum 48" above floor (optimum for wheelchairs: 36")
2. wall outlets 18" above floor

Considerations:

Occasionally, a patron will need to plug in a reading or other aid. Provide three-prong outlets (required by OSHA) to help the blind position plugs.

Master switches can control all lights in a room to eliminate many trips

SAFETY DEVICES

While patron safety is a great concern to all librarians, one unspoken concern among librarians about increasing library use by people with disabilities is the possibility of making special efforts to insure safety. Every library should plan and write systematic emergency procedures and familiarize staff and volunteers with them. A list of emergency procedures should be readily available in the circulation area. Emergency exits should be clearly marked.

ANSI Standards:

1. Audible warning signals for the blind accompanied by simultaneous visual signals for individuals with hearing disabilities. Such visual signals must be visible from all areas used by the public or employees. Strobe lights are preferred.
2. Fire extinguishers mounted so that parts needing to be reached are no more than 44" from floor. Symbol and diagram provide instructions for non-readers.

Additional Vermont Rules:

Visual awareness alarms are provided for the hearing impaired where an alarm is normally audible.

WATER FOUNTAINS

The ANSI standards are based on adult dimensions; many public buildings provide lower water fountains for children.

ANSI Standards:

1. accessible and usable by people with disabilities
2. clear knee space under bowl (at least 1 1/2")
3. up-front spouts and controls (spout must be nearly parallel to front of bowl)
4. hand operated, or hand and foot operated
5. bowl 32" maximum above floor

TELEPHONES

Most Vermont public libraries do not have telephones solely for the public to use, but they may employ people with disabilities and allow public use for local calls or emergencies.

ANSI Standards:

1. accessible and usable by persons with disabilities
2. height of dial, handset, and coin slot maximum 4' above floor
3. identified and equipped for persons with hearing disabilities, such as a volume control or a receptacle to connect TDD

Considerations:

Pushbutton controls are easier for people with mobility problems to use than rotary telephones.

All public libraries should be aware of the Vermont TTY/Voice Telephone Relay System which can link deaf and hearing people toll-free by dialing **1-800-545-3323.** When someone dials the number, the Relay Center answers the call and then relays the message via TTY (teletypewriter) to a deaf person and via phone to a hearing person. The operators type messages to deaf people and talk to hearing people. TTY Directory Assistance is also available through the relay number.

The relatively small purchase of a TTY (about $200) could be an important public library service for deaf and speech impaired community residents. Vermont's only dealer is Gallaudet Systems, Inc., Rolling Acres, Middlebury 05753, 388-6484.

Rutland Free Library has a pay telephone in its lobby.

HAZARDS

ANSI Standards:

1. manholes or access panels when open and open excavations on a site shall have barricades on all open sides, 8' minimum from hazard, and warning devices installed
2. avoid low-hanging door closers within opening of doorways, or protruding into corridors or traffic ways when door is closed
3. signs, ceiling lights, fixtures or similar objects protruding into corridors or traffic ways minimum 7' above floor

FUNDING BUILDING ALTERATIONS

Now that you have decided what modifications your library needs, how do you fund them?

Begin locally. Contact local organizations (e.g., Historical Society, church groups, Lions, Rotary, Elks, Business and Professional Women) to work with you in planning and fundraising for library accessibility. You might suggest a project to last several years as you work on parts of your plan. For small projects, seek donated work by local carpenters and donated building materials from local, non-chain lumberyards. Some chain lumberyards also offer large discounts to nonprofit organizations.

You may decide to solicit contributions from individuals in your community and/or service clubs. Before you write a general letter, have all your facts together about what you want to do and how much you will need. If possible, include anecdotal material about restrictions in access to your building now. Ask permission to use community members' names before you do. One Vermont library received this letter concerning its access problems:

TO WHOM IT MAY CONCERN:

Library access is important to me. I use two canes and while the library will deliver books to my home, it is not the same as selecting your own from library shelves.

In the summer, I have easier access. I can cross the lawn to the two steps going into the library, and there is a railing. The door opens easily. In the winter, I have no access. The lawn is a barrier I cannot surmount as it cannot be kept free of snow and ice.

There is no wheelchair access. The two steps to the door cannot be negotiated by some.

I would like to use the library more but cannot. The library staff will always deliver books and tapes to my home, and it is very helpful in making selections. These services are invaluable to those who are house bound.

The Vermont Association for the Physically Challenged (see "Resources") is interested in helping libraries become physically accessible. Contact person George Bixby (475-2002) says the group has concentrated on Addison County but is ready to branch out statewide. He will arrange for libraries to receive free signs designating handicapped parking (standard cost: $15.68) and to have them installed by the National Guard. He will also suggest funding sources and alternatives for making buildings accessible.

Mr. Bixby recommends that libraries contact Paul Stough, former District Governor of the Lions Club (1 Snowflake Lane, Jericho 05465. 899-2972), for names of potential Lions Club volunteers in their communities.

Grants may seem like the only resort for larger projects, but many foundations hesitate to fund capital improvements. Discuss your project with a grantor before applying to make sure that it fits their guidelines. A few possible sources for building projects include:

Library Services and Construction Act, Title II
Awarded annually by the Department of Libraries, with a usual grant deadline of June 1. Information available around January 1. A 50% local match is necessary.
Contact: Patricia E. Klinck, State Librarian, 828-3265.

Community Development Block Grant
Awarded to muncipalities. If your library is funded largely by a municipality, contact local officials to discuss the possibilties of a municipal application to make the library (and other community buildings) physically accessible. You should have a plan and some preliminary cost figures before your initial contact with municipal officials.

The Alden Balch Memorial Library, Lunenburg, funded its ramp by applying with several other community agencies and the Northeast Kingdom Community Action Council for a grant from the U.S. Dept. of Housing and Urban Development (HUD). Contact trustee Deborah Thomas (library phone number: 892-5365) for more information about the process.

Other grant possibilities include:

Blind Artisans of Vermont, Inc., 46 Chestnut St., Brattleboro 05301, 254-9554, Al Nichols, Treasurer.

Kresge Foundation, p. O. Box 3151, 3215 W. Big Beaver Rd., Troy, MI 48007-3511, (313) 643-9630.
Challenge grants for major construction or renovation projects.

Windham Foundation, P. O. Box 70, Grafton 05146, 843-2211.
Average grant: $1-5,000

Fund for Vermont's Third Century, 104 Church St., Burlington 05401, 658-6647. Contact: Paul Bruhn.

Vermont Community Foundation, 1 Court St., Middlebury 05753. Contact: Charlotte Stetson.

Neat Repeats, Bakery Lane, Middlebury 05753.
This thrift shop makes $100-500 grants monthly to Addison County organizations.

RESOURCES

Your best sources of ideas and information may be right in your community. Beyond that, the following may also offer suggestions and help in planning:

American National Standards Institute
1430 Broadway
New York, NY 10018
(212)354-3300
develops specifications for making buildings and facilities physically accessible

Austine School for Deaf and Hard-of-hearing Children
120 Maple St.
Brattleboro, VT 05301
254-4571
Contacts: John Enola, librarian
TTY/Voice Telephone Relay, 1-800-545-3323

Gallaudet Systems, Inc.
Rolling Acres
Middlebury, VT 05753
388-6484
Vermont's only TTY dealer

Deborah Lisi, consultant
RR 1, Box 1436 - Blush Hill Rd.
Waterbury, VT 05676
244-5126

National Assn. for Hearing and Speech Action
10801 Rockville Pike
Rockville, MD 20852
1-800-638-8255 (V/TDD)
Information on TDDs

National Information Center on Deafness
Gallaudet University
800 Florida Ave., NE
Washington, DC 20002
(202) 651-5051

National Captioning Institute
5203 Leesburg Pike
Falls Church, VA 22041
(703) 998-2400
Information on closed caption videos

National Center for Vision and Aging
111 East 50th St.
New York, NY 10022
1-800-334-5497

Self Help for Hard of Hearing People, Inc.
7800 Wisconsin Ave.
Bethesda, MD 20814
(301) 657-2248 (V), (301) 657-2249 (TDD)

United Cerebral Palsy of Vermont
73 Main St., Rm. 402
Montpelier, VT 05602
223-5161
Contact: Lee Viets

Vermont Architectural Barrier Compliance Board
Dept. of Labor and Industry
7 Court St. Montpelier, VT 05602
828-2106
Contacts: Bob Howe (access issues)
Steve Monahan (attorney)

Vermont Assn. for the Blind and Visually Impaired
37 Elmwood Ave.
Burlington, VT 05401
863-1358 or 1-800-639-5861
Contact: Jules Cote, Executive Director

Vermont Assn. for Learning Disabilities
9 Heaton St.
Montpelier, VT 05602
223-5480
Contacts: Donna Rieboldt, 728-5139
Carol Haggett, 479-0847

Vermont Center for Independent Living
174 River St.
Montpelier, VT 05602
229-0501 or 1-800-622-4555
nonprofit corporation that can advise individuals and organizations.
Contacts: Chryss Jones, Community Advocacy Director
Peter Jonke (speakers bureau)
Jim Roos (home modification)
Joan Tobias (information and referral)

Vermont Coalition for Disability Rights
73 Main St.
Montpelier, VT 05602
223-6140
Contact: Penny Goerlach, Executive Director

Vermont Developmental Disabilities Council
103 S. Main St.
Waterbury, VT 05676
241-2612
Contacts: Anne Holmblad, President
Tom Pombard, Executive Director

Vermont Developmental Disabilities Law Project
P. O. Box 1367
Burlington, VT 05401
863-2881

Vermont Division for the Blind and Physically Handicapped
103 S. Main St.
Waterbury, VT 05676
241-2211
Contact: David Mentasi, Director

Vermont Division of Historic Preservation
Development and Community Affairs
c/o Pavilion Office Bldg.
Montpelier, VT 05602
828-3226
Contact: Nancy Boone, State Architectural Historian
Bob McCullough

Vermont Division of Vocational Rehabilitation
Dept. of Aging and Disabilties
103 South Main St.
Waterbury, VT 05676
241-2186 (Voice and TDD)
Contacts: David Sagi, Accessibility Services Coordinator, 173 West St., Rutland 05701, 773-5866, 775-0088 (home)
Rene Pellerin, Consultant for the Deaf and Hearing Impaired, 241-2186
Cathy Nelson (accessible meeting sites), 241-2186

Vermont Human Rights Commission
National Life Dr.
Montpelier, VT 05602
828-2480
Contact: Susan Sussman, Commissioner

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Selected Bibliography

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McCray, P.M. The job accommodation handbook. RPM Press, 1987.

National Park Service. Accommodation of disabled visitors at historic sites in the National Park System. U.S. Dept. of the Interior, 1983. Includes charts, process, resources, suppliers.

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"On Being a Citizen in Vermont: The Status of Service for People with Developmental Disabilities in Vermont." Vt. Dev. Disabilities Council, 1990.

Ordinary moments: the disabled experience, ed. by Alan J. Brightman. Human Policy Press, 1985. Candid, intimate accounts by eight adults with various disabilities about every day life. Brightman offers photos, commentary and an excellent bibliography.

*People first: serving and employing people with disabilities. Library Video Network/ALA, 1990. Excellent introductory videotape to raise staff and community awareness.

Rules governing access to public buildings and facilities by persons with physical disabilities. Vermont Dept. of Labor & Industry Architectural Barrier Compliance Board, 1988.

"Services for Vermont Senior Citizens," Vt. Dept. of Aging and Disabilities, annual. Easy to use directory.

*Sorenson, Liene S. Accessible library services: taking action to enhance public library services for persons with disabilities. Skokie (IL) Public Library/PLA, 1988.

Tica, Phyllis L. and Julius A. Shaw. Barrier-free design: accessibility for the handicapped. CUNY, 1974.

U.S. Dept. of the Interior. The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The Dept., 1990. Lists recommended and not recommended renovation methods.

Velleman, Ruth A. Meeting the needs of people with disabilities. Oryx, 1990.

Vermont League of Cities and Towns. Federal handicapped regulations and local governments' responsbilities. The League, 1984.

*Vermont's Guide to Accessible Sites: How to Make Meetings Open to Everyone. Vt. Dept. of Aging and Disabilities, 1990. Free directory with introduction on what makes sites accessible. A list of sites that are not accessible is also available.

Wright, Kieth C. and Judith F. Davie. Library and information services for handicapped individuals, 3rd ed. Libraries Unlimited, 1989.

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Selected Bibliography

Most of these are available from the Department of Libraries Library Science Collection in Montpelier.

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Cohen, Aaron and Elaine Cohen. DESIGNING AND SPACE PLANNING FOR LIBRARIES: A BEHAVIORAL GUIDE. Bowker, 1979. Emphasizes psychology as part of design.

Dahlgren, Anders. PLANNING THE SMALL PUBLIC LIBRARY BUILDING. ALA, 1985, $5.00. 0-8389-5652-1. Brief and to the point. Buy for its practicality and charts.

Dahlgren, Anders. PUBLIC LIBRARY SPACE NEEDS: A PLANNING OUTLINE. Wisconsin Dept. of Public Instruction, 1988. Essential for determining specific square footage needed for various functions in a public library.

Fraley, Ruth A. LIBRARY SPACE PLANNING: HOW TO ASSESS, ALLOCATE, AND REORGANIZE COLLECTIONS, RESOURCES, AND PHYSICAL FACILITIES. Neal-Schuman, 1985. For all types of libraries.

Holt, Raymond M. WISCONSIN LIBRARY BUILDING PROJECT HANDBOOK, 2nd. ed. rev. Wisconsin Dept. of Public Instruction, 1990. Detailed, with excellent coverage. This second edition revised and enlarged by Anders Dahlgren.

ILLINOIS LIBRARIES, November, 1985. Entire issue devoted to library building.

"Interim Standards for Small Public Libraries: Guidelines toward Achieving the Goals of Public Library Service." ALA, 1962. Offers formulas for "inputs" not currently available (or recommended) nationally.

LIBRARY BUILDINGS CONSULTANT LIST, ALA, 1987. Compiled by the LAMA Building and Equipment Section, this is a self-selected national list.

LIBRARY SPACE PLANNING GUIDE, Connecticut State Library, 1989. Using much of the information in Anders Dahlgren's pamphlets, this offers a means to estimate space needs quickly.

Lushington, Nolan and Willis N. Mills, Jr. AIA. LIBRARIES DESIGNED FOR

USERS: A PLANNING HANDBOOK. Gaylord, 1979. Good overview, easy to read.

McClure, Charles R. and others. PLANNING AND ROLE SETTING FOR PUBLIC LIBRARIES. ALA, 1987. Along with OUTPUT MEASURES FOR PUBLIC LIBRARIES, 2nd ed. (by Nancy Van House and others, ALA, 1987), these national planning and measurement tools offer options for self-assessment and thinking about the library's place in the community, which are the essential beginning points for planning to build.

Metcalf, Keyes D. PLANNING ACADEMIC AND RESEARCH LIBRARY BUILDINGS, 2nd ed. ALA, 1986. This edition, by Philip D. Leighton and David C. Weber offers extensive information, with a decidedly academic slant but useful to all building projects.

Myller, Rolf. THE DESIGN OF THE SMALL PUBLIC LIBRARY. Bowker, 1979. Practical, with concise charts, but now somewhat outdated.

Rohlf, Robert. "Library Design: What Not to Do," AMERICAN LIBRARIS, Feb., 1986, p. 100-104.

Wheeler, Joseph. THE AMERICAN PUBLIC LIBRARY BUILDING: ITS PLANNING AND DESIGN WITH SPECIAL REFERENCE TO ITS ADMINISTRATION AND SERVICE. Scribner, 1941. Still a classic that explains why library buildings evolved as they did and offers practical suggestions.

3/86, rev. 4/91

PUBLIC LIBRARIES THAT ARE PHYSICALLY ACCESSIBLE

Public libraries in the following Vermont towns report that they are physically accessible to people with disabilities:

Barton
Bellows Falls
Bennington
Bethel
Bradford
Brandon
Brattleboro
Bridgewater
Brookfield
Burlington
Canaan
Castleton
Cavendish
Charlotte
Chelsea
Chittenden
Colchester
Dorset
Dover
East Craftsbury
Enosburg
Essex
Essex Junction
Fairfax
Fairfield
Grand Isle
Greensboro
Groton
Quechee
Landgrove
Lincoln
Lunenburg
Middlebury
Milton
Montpelier
Morrisville
Wells River
New Haven
North Hero
Norwich
Orleans
Pawlet
Peacham
Poultney
Proctor
Putney
Randolph
Readsboro
Richford
Richmond
Rutland
St. Albans
Shelburne
South Burlington
South Hero
South Londonderry
Springfield
Stamford
Stowe
Thetford
Townshend
Vernon
Warren
Waterbury Village
Wells
Whitingham
Williston
Winooski
Wolcott

VOICE (800) 826-3700
TTY (603) 228-9680
GRANITE STATE INDEPENDENT LIVING FOUNDATION
"Promoting Life with Independence for Persons with Disabilities"

WHEN SPEAKING TO A PERSON WITH ANY DISABILITY

1. Make eye contact.
2. Talk directly to the person, especially if using an interpreter.
3. Use your usual tone of voice and usual voice inflection.
4. If it is difficult for you to understand someone who has a speech difficulty, it is okay to ask them to repeat what they said.
5. When appropriate, use gestures, sign language, or interpreters.
6. Offer assistance if you wish, but do not insist. If a person wants help, he or she will accept your offer and tell you exactly what would be helpful.

WHEN SPEAKING TO SOMEONE WHO USES A WHEELCHAIR

1. Try to sit down in order to share eye level.
2. Don't be sensitive about using words like "walking" or "running". People who use wheelchairs use the same words.

WHEN SPEAKING TO A PERSON WITH A HEARING IMPAIRMENT

1. Speak clearly and distinctly, but don't exaggerate. Use normal speed unless asked to slow down.
2. Provide a clear view of your mouth. Some people with hearing impairments lip read.
3. Shouting does not help. Speak in your normal tone unless asked to speak more loudly.
4. Remember that your facial expressions and gestures are important. They serve as "tone" for people who cannot hear the inflections in your voice.
5. If you and the person you are speaking with have a great deal of difficulty understanding one another's speech, it's okay to write notes.

WHEN SPEAKING TO SOMEONE WITH MENTAL RETARDATION

1. Keep your language simple. Make concepts clear, and try to avoid complex sentences.
2. However, remember that simple language is not childish language. Adults like to be addressed as adults.
3. Sometimes, people with mental retardation may be slow to respond to questions; give them time.

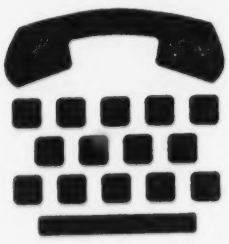
WHEN SPEAKING TO A PERSON WITH A VISUAL IMPAIRMENT

1. Remember that it is not necessary to speak loudly.
2. If you enter the conversational space of a person with a visual impairment, speak to them. People with visual impairments can become uncomfortable if they sense that they are being observed in silence.
3. It is okay to use words like "look" or "see."

GLOSSARY

Developmental disability -
1) a chronic disability attributable to a mental or physical impairment or both;
2) manifest before the age of 22;
3) likely to continue indefinitely;
4) resulting in substantial limitation of three or more areas of life activity, including self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living or economic self-sufficiency;
5) reflecting the need for a combination and sequence of special or interdisciplinary or generic care, treatment or other services which are of life-long or extended duration.

TDD - Telecommunication Device for the Deaf.
TTY - Teletypewriter



The international TDD logo at left indicates the location of a telecommunication device for the deaf in public facilities.

Telecaption Adapter - device that prints captions or sentences on a television screen so that TV dialogue can be read. Also called a Closed Caption Decoder.

RESOLUTION ON ACCESS TO THE USE OF LIBRARIES AND INFORMATION BY INDIVIDUALS WITH PHYSICAL OR MENTAL IMPAIRMENT

Adopted January 13, 1988, by the American Library Assn. Council

WHEREAS, the Intellectual Freedom Committee is concerned with freedom of access; and

WHEREAS, the "Library Bill of Rights" states that "books and other library resources should be provided for the interests, information and enlightenment of all people of the community the library serves" and "a person's right to use a library should not be denied or abridged..."; and

WHEREAS, Federal and state constitutional and statutory laws forbid public institutions for discriminating against handicapped individuals, i.e., persons who have a physical or mental impairment; and

WHEREAS, Court opinions have clearly interpreted said laws as proscribing discrimination against persons who have acquired immune deficiency syndrome ("AIDS"), AIDS-related complex ("ARC"), or who test positive for the human immunodeficiency virus ("HIV"); and

WHEREAS, the American Medical Association and the United States Department of Health and Human Services have opined that while the human immunodeficiency virus that causes AIDS is a contagious disease, it cannot be transmitted by casual contact; now, therefore be it

RESOLVED that the "Library Bill of Rights" of the American Library Association which insures access to library facilities, materials and services by all people of the community includes individuals with physical or mental impairments; and be it further

RESOLVED that the American Library Association deplores discrimination against and denial or abridgment of library and information access to persons of all ages who have acquired immune deficiency syndrome ("AIDS"), AIDS-related complex ("ARC"), or who test positive for the human immunodeficiency virus ("HIV").

EXCERPTS FROM THE AMERICANS WITH DISABILITIES ACT OF INTEREST TO PUBLIC LIBRARIES

Public Law 101-336
101st Congress

An Act

To establish a clear and comprehensive prohibition of discrimination on the basis of disability.

July 26, 1990
[S. 933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Americans with Disabilities Act of 1990.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

42 USC 12101 note.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.
Sec. 243. Conformance of accessibility standards.

SEP 21 1990

Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in specified public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.

TITLE IV—TELECOMMUNICATIONS

Sec. 401. Telecommunications relay services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Coverage of Congress and the agencies of the legislative branch.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

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42 USC 12101.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies,

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failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS. 42 USC 12

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

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(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

42 USC 12111.

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

42 USC 121

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compen-

sation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES. 42 USC 12

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity,

and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) LIST OF INFECTIOUS AND COMMUNICABLE DISEASES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, not later than 6 months after the date of enactment of this Act, shall—

(A) review all infectious and communicable diseases which may be transmitted through handling the food supply;

(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

(C) publish the methods by which such diseases are transmitted; and

(D) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public.

Such list shall be updated annually.

(2) APPLICATIONS.—In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) CONSTRUCTION.—Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability published by the Secretary of Health and Human Services.

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Public information

42 USC 12114

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

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(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are

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employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) TRANSPORTATION EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

42 USC 12115.

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

42 USC 12116.

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

42 USC 12117.

SEC. 107. ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and

Regulations.

part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act.

SEC. 108. EFFECTIVE DATE. 42 USC 121 note.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION. 42 USC 121

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION. 42 USC 12

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT. 42 USC 121

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS. 42 USC 12

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

42 USC 12131 note

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

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TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

42 USC 12

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

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(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS. 42 USC 1:

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privi-

lege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily

accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

42 USC 12183

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and

scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 308. ENFORCEMENT. 42 USC 12188

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of

section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES. 42 USC 121

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or post-secondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE. 42 USC 121 note.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2) (B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows: 47 USC 611.

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION. 42 USC 12201

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms

of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

C 12202 SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

C 12203 SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

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(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

C 12204 SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

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(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for

alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7 (1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES. 42 USC 12205.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE. 42 USC 12206.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

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(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the

plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

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(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SC 12207 SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

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(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—

(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) DEFINITION.—For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

SEC. 508. TRANSVESTITES. 42 USC 12208

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH. 42 USC 12209

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

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(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent

practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraph (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(3) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the House of Representatives regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) APPROVAL.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

SEC. 510. ILLEGAL USE OF DRUGS. 42 USC 12210.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity act. on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

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SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

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except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION. 42 USC 12212.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials,

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and arbitration, is encouraged to resolve disputes arising under this Act.

42 USC 12213

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

Approved July 26, 1990.

LEGISLATIVE HISTORY—S. 933 (H.R. 2273):

HOUSE REPORTS: No. 101-485, Pt. 1 (Comm. on Public Works and Transportation), Pt. 2 (Comm. on Education and Labor), Pt. 3 (Comm. on the Judiciary), and Pt. 4 (Comm. on Energy and Commerce) all accompanying H.R. 2273; and No. 101-558 and No. 101-569 both from (Comm. of Conference).

SENATE REPORTS: No. 101-116 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Sept. 7, considered and passed Senate.

Vol. 136 (1990): May 17, 22, H.R. 2273 considered and passed House; S. 933 passed in lieu.

July 11, Senate recommitted conference report.

July 12, House agreed to conference report.

July 13, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

July 26, Presidential remarks and statement.